IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 3169 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NARENDRAPRASAD ISHWARLAL DAVE AND ANOTHER
Versus
HANSABEN W/O RAJENDRAKUMAR AND OTHERS

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Appearance :
MR KJ SHETHNA for Applicants.
NOTICE SERVED for Respondent No. 1.
MS MANISHA SHAH, APP for Respondent No. 2.
None for Respondent No. 3.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 13/01/2006

ORAL JUDGMENT

RULE. With the consent of the parties, matter is taken up for final hearing today.

By filing this application, the applicant has prayed that complaint in Criminal Case No.1584 of 2001 may be quashed and set aside. Aforesaid complaint is filed by respondent No.1 herein under Sections 498 – A, 504, 506 (2), 323, 294 (A) and 114 of the Indian Penal Code alleging that the respondent No.3 was torturing respondent No.1 physically and mentally after the death of their son. It is also alleged that respondent No.3 was also beating the respondent No.1 and the family members of respondent No.3 were supporting him in such acts.

Respondent No.3 was subsequently joined as a party. This is a matrimonial dispute and the parties were called in chamber on 10th January, 2006 and this Court had passed following order on that date :

> "Today, respondent No.3 – Rajendrakumar Narendraprasad Dave is present before this Court along with his wife - Hansaben (respondent No.1). Both of them have pointed out that they are residing together happily. It is also pointed out by respondent No.1 (original complainant) that she is happy with her husband and an unfortunate matrimonial dispute is amicably settled. It is also submitted by her that she is not willing to proceed further with the complaint.
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> It is pointed out to the Court that respondent No.1 is undergoing some treatment and she is also getting relief by taking medicines.
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> Considering the aforesaid aspect of the matter, now it would be just and appropriate to quash the complaint in question. However, since learned advocate for the applicants Mr.K.J.Shethna is not present, for passing appropriate final order matter is adjourned to 12th January, 2006."

Mr.Shethna, learned advocate for the applicant submitted that

since respondent No.1 and respondent No.3 are residing together, now it is not necessary to continue the complaint and continuance of the complaint may create some complications in the peaceful life of respondents No.1 and 3.

The fact that respondents No.1 and 3 are residing together is not in dispute. So far as applicant is concerned, he is father-in-law of respondent No.1 and father of respondent No.3. Considering the fact that even the original complainant has submitted that she is not willing to proceed further with the complaint, this application is allowed. Complaint in Criminal Case No.1584 of 2001 pending before the Court of Joint Civil Judge and JMFC, Court No.V, Ahmedabad (Rural), and all subsequent proceedings are quashed and set aside. Rule is made absolute.

(P.B.MAJMUDAR, J.)

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